IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 10144-M of 2007

DATE OF DECISION : 22.02.2007

Mohan Singh and another

.... PETITIONERS

Versus

State of Punjab

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. M.S. Rakkar, Senior Advocate, with
Mr. P.S. Baath, Advocate,
for the petitioners.

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This is second petition filed by Mohan Singh and Inderjit Singh under Section 438 of the Code of Criminal Procedure for the grant of anticipatory bail in case FIR No. 148 dated 28.11.2005 under Sections 201/223/224/225 IPC registered at Police Station Sadar, Nabha, District Patiala. The earlier petition filed by them was not pressed by their counsel, after arguing for some time.

2. I have heard counsel for the petitioners and gone through the contents of the FIR.

3. In this case, both the petitioners were assigned the duty, being police officials, to take Raman Kumar, who was facing trial in many cases, including a murder case, from Central Jail, Patiala to Ludhiana to attend the court proceedings. After attending the court proceedings, petitioners went with the said accused in his village in a private car and enjoyed his hospitality and took meals there. From there, the said accused are alleged to have run away from the custody of both the petitioners. Thereafter, the aforesaid FIR was registered against them.

4. Counsel for the petitioners contends that the offences under Sections 201, 223 and 224 IPC are bailable. However, the offence under Section 225 IPC is non-bailable, but the same is not made out against the petitioners. At the most, the offence under Section 225-A IPC is made out, which is bailable. It is further submitted that the petitioners have been falsely implicated in the aforesaid case and accused Raman Kumar ran away from their custody after throwing chilly powder in their eyes. It is further submitted that vide order dated 29.3.2004, Sessions Judge, Ludhiana, had specifically directed that whenever, accused Raman Kumar is produced in the court, special guard be deputed. Since the special guard was not deputed, therefore, the petitioners cannot be made to suffer because of the inaction on the part of the concerned authorities.

5. Undisputedly, Raman Kumar was facing trial in many criminal cases, including a murder case, at Ludhiana. He was a harden criminal and a specific order was passed by Sessions Judge, Ludhiana, on 29.3.2004 that whenever, the aforesaid accused is to be produced in court, special guard be deputed. In spite of this fact, the petitioner took the aforesaid accused Raman Kumar to his house in a private car and they enjoyed his hospitality. The alleged offence committed by the petitioners falls under Section 225 IPC, as Raman Kumar was charged for an offence punishable with death and for his escape, in connivance with and negligence of the petitioners, they have committed offence, for which punishment is upto 7 years. It is specifically mentioned that accused Raman Kumar has not been arrested so far.

6. In view of the above, I do not find any ground to grant the discretionary relief of anticipatory bail to the petitioners.

7. Dismissed.

February 22, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**